IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL, CIVIL JURISDICTION

WRIT PETITION NO.2405 OF 2006

Anvarul Mehbula Chaudhary & Ors..Petitioners

Vs.

State of Maharashtra & Ors. ..Respondents

Mr. A.K. Abhyankar with Mr. M.V. Pandey for the Petitioners.
Mr. K.R. Belosey, Government Pleader with Mr. M. More, AGP for Respondents 1 and 2.
Mrs. A.K. Savla for Respondent No.5
Mr. G.D. Utangale, for respondent No.3.
Mr. J. Reis i/b. Anil D. Yadav, for respondent No.7.
Mr. A.C.Singh i/b.A.R.Shah, for the Respondent No.6.

CORAM: F.I. REBELLO &
ANOOP V. MOHTA, JJ.
DATE: 1ST DECEMBER, 2006

P.C.

. Rule. Heard forthwith. The petitioner has approached this Court contending that the proposed society has submitted a proposal to SRA by the application dated 18th March, 2006. On 28th April, 2006 they were asked to pay the necessary fees for scrutinising the application. Thereafter by letter dated 17th May, 2006 the architect was informed that on scrutiny of the papers there were shortcomings in the proposal. The grievance of the petitioners is that in the meantime a meeting was held on 27th June, 2006 in the office of the Principal Secretary (Housing). In terms of the said minutes as recorded it was noted that the proposal submitted on 31st March, 2006 by respondent No.6 had to be given first

preference and that the authority instead of doing so have accepted only letter dated 28th April, 2006. It is thereafter noted that the proposal submitted by the developers and architect on behalf of the respondent No.6 being in terms of the Rules should be verified and Annexure II be issued in terms of the Rules. It is this order which is the subject matter of the present petition.

2. On behalf of the respondent No.1 their learned Counsel has been unable to show us any power in the Principal Secretary (Housing) except to point out the provisions of Section 3(k) of the Maharashatra Slum Areas (Improvement, Clearance and Redevelopment) Act, hereinafter referred to as the Slum Act.

. On behalf of the contesting respondents it is pointed out that the Architect had submitted the proposal initially on 20th February, 2006 and then on 2nd March,2006. The said proposal was returned and not accepted on the ground that the proposal was not complete and certain requirements remained to be fulfilled. It is then pointed out that on 31st March,2006 the proposal was accepted.

3. Considering the rival contentions it was obligatory on the part of the SRA to have decided the issue as to whether the application made by the

petitioners herein was in order and could have been entertained. The rival contentions of the respondents considering the controversy now raised could also have been considered. At any rate the respondent No.1 through his delegate the Principal Secretary (Housing) without SRA having taken a decision ought not to have interfered and issued any direction even before the SRA had given a finding of fact as to which of the application which are in order and which had to be entertained.

4. Considering the rival contentions we do not propose to answer the issue, but leave it to the SRA to consider the rival contentions of the petitioners and respondent No.6 and thereafter to take appropriate decision according to law at any rate not later than six weeks from today. In the meantime and till the decision is taken the further process for issuing LOI not to be taken.

5. Rule made absolute accordingly. No order as to costs.

(**F.I. REBELLO, J)**

(**ANOOP V. MOHTA J).**